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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,596	07/06/2001	Vincent Pavis	1112-102.US	4105
7590	02/25/2004		EXAMINER	
JOHN F. LETCHFORD KLEHR, HARRISON, HARVEY, bRANZBURG & ELLERS 260 S. BROAD STREET PHILADELPHIA, PA 19102			WEBMAN, EDWARD J	
			ART UNIT	PAPER NUMBER
			1617	

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Paper No. 38

Application Number: 09/900,596  
Filing Date: July 06, 2001  
Appellant(s): PAVIS ET AL.

**MAILED**  
**FEB 25 2004**  
**GROUP 2**

J. F. Letchford  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 10/17/03.

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**(1) Real Party in Interest**

A statement identifying the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) Status of Claims**

The statement of the status of the claims contained in the brief is correct.

This appeal involves claims 1, 2, 5, 8, 11, 12, 16, 17, 19-23.

Claims 3, 6, 7, 9, 10, 14, 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 4, 13, 25-30 are withdrawn from consideration as not directed to the invention  
elected  
A

Claim 18 has been canceled.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is incorrect.

The amendment after final rejection filed on 8/14/03 has been entered.

The amendment after final rejection filed on 8/21/03 has been entered.

**(5) Summary of Invention**

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The summary of invention contained in the brief is correct.

**(6) Issues**

The appellant's statement of the issues in the brief is substantially correct. The changes are as follows: the rejection over Tellier et al is withdrawn.

The appellant's statement in the brief that certain claims do not stand or fall together is not agreed with because claim 20 is merely a further limitation of claim 1.

**(8) ClaimsAppealed**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) Prior Art of Record**

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

5,171,475 FREIESLEBEN 12-1992

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 2, 5, 8, 11, 12, 16, 17, 19-23 are rejected under 35 U.S.C. 102b. This rejection is set forth in prior Office Action, Paper No. 5/13/03.

**(11) Response to Argument**

Applicants argue that Freiesleben does not teach Bioremediation. However, the claimed utility is merely an intended use. Applicants again argue that Freiesleben does not teach a nutrient-containing inner phase, noting that the nitrogen-containing emulsifiers in Table 2 cited by the examiner are located in the organic phase. However,

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that is so before emulsification. After emulsification such emulsifiers will be located at the oil/water interface as is well-known for the behavior of such compounds. Applicants stipulate such on page 13 line 24 as noted in the advisory. Applicant is silent regarding their disclosure. As to the claimed flashpoint, Freiesleben teaches applicants ingredients, therefore the claimed property must also be possessed by Freiesleben's composition.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Webman/tgd  
January 28, 2004

Conferees  
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